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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

IBIS SALAZAR,

Petitioner,

v.

THE SUPERIOR COURT OF
RIVERSIDE COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

E062264

(Super.Ct.No. RIC1409844)

OPINION

ORIGINAL PROCEEDINGS; petition for writ of mandate. John W. Vineyard,
Judge. Petition granted.

La Cues Law Group, Jerry La Cues and Brett La Cues, for Petitioner.

No appearance for Respondent.

No appearance for Real Party in Interest

The law being clear and no response having been received from respondent and/or real party in interest, the petition is granted.

DISCUSSION

Although criminal contempt is available as a remedy where such conduct tends to impede, embarrass, or obstruct the court (*In re Nolan W.* (2009) 45 Cal.4th 1217), the facts of contempt must be clearly established and may not be determined with the aid of information not in the record. (*Boysaw v. Superior Court* (2000) 23 Cal.4th 215; *In re Littlefield* (1993) 5 Cal.4th 122.)

Here, the witness's testimony was ambiguous and readily susceptible to the construction that it expressed confusion over the form of the question rather than a specific intent to frustrate the orders of the court. Even if another witness had made a similar response, there is nothing in the record to show that petitioner was aware of that response or the court's reaction to it. We also note that the trial court was careful to exonerate petitioner's counsel from any suspicion of coaching the witness into an improper response. It seems highly unlikely that the witness would have deliberately attempted on her own to frame a response that might suggest to the jury that other defects existed while trying to avoid an outright violation of the court's order.

Hence, we conclude that the evidence supports no more than a finding that the witness inadvertently gave a response that arguably violated the court's order. The harsh remedy of contempt was not available in these circumstances.

DISPOSITION

Let a peremptory writ issue, directing the Superior Court of Riverside County to vacate its order of contempt against petitioner.

Petitioner is directed to prepare and have the peremptory writ of mandate issued, copies served, and the original filed with the clerk of this court, together with proof of service on all parties.

The previously ordered stay, having served its purpose, is LIFTED.

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McKINSTER
J.

We concur:

HOLLENHORST
Acting P. J.

CODRINGTON
J.